

Tanning Beds Protocol, 2019

Ministry of Health and Long-Term Care

Effective: February 2019

Preamble

The Ontario Public Health Standards: Requirements for Programs, Services, and Accountability (Standards) are published by the Minister of Health and Long-Term Care under the authority of section 7 of the *Health Protection and Promotion Act* (HPPA) to specify the mandatory health programs and services provided by boards of health.^{1,2} The Standards identify the minimum expectations for public health programs and services. Boards of health are accountable for implementing the Standards including the protocols and guidelines that are referenced in the Standards. Protocols are program and topic-specific documents incorporated into the Standards which provide direction on how boards of health shall operationalize specific requirement(s) identified within the Standards.

Purpose

The purpose of this protocol is to assist boards of health in managing local inspection and enforcement of the *Skin Cancer Prevention Act (Tanning Beds), 2013 ("the Act)* and of General, O. Reg. 99/14 (O. Reg. 99/14) with respect to monitoring compliance and enforcing requirements of the Act.^{3,4}

- Prohibitions:
 - Sale and marketing for persons under 18 years of age (“adolescents”);
 - Self-tanning
- Requirements:
 - Signage at tanning bed facilities;
 - Protective eyewear; and
 - Notice of Operation
- Regulations:
 - *General, O. Reg. 99/14* under the *Skin Cancer Prevention Act (Tanning Beds), 2013*;⁴
 - *Proceedings Commenced by Certificate of Offence*, RRO 1990, Reg. 950 (Reg. 950), under the *Provincial Offences Act*, Schedule 82.2.^{5,6}

Reference to the Standards

This section identifies the standards and requirements to which this protocol relates.

Effective Public Health Practice

Requirement 9. The board of health shall publicly disclose results of all inspections or information in accordance with the *Food Safety Protocol, 2018* (or as current); the *Health Hazard Response Protocol, 2018* (or as current); the *Infection Prevention and Control Complaint Protocol, 2018* (or as current); the *Infection Prevention and Control Disclosure Protocol, 2018* (or as current); the *Infection Prevention and Control Protocol, 2018* (or as current); the *Recreational Water Protocol, 2018* (or as current); the *Safe Drinking Water*

and Fluoride Monitoring Protocol, 2018 (or as current); the Tanning Beds Protocol, 2018 (or as current); and the Tobacco, Vapour and Smoke Protocol, 2018 (or as current).

Chronic Disease Prevention and Well-Being

Requirement 3. The board of health shall enforce the *Skin Cancer Prevention Act (Tanning Beds)*, 2013, in accordance with the *Tanning Beds Protocol, 2018* (or as current).³

Operational Roles and Responsibilities

Inspections

All tanning bed facilities may be subject to inspection(s) in locations where tanning services or ultraviolet light treatments for tanning are offered for sale, which includes tanning salons as part of personal services settings and other locations that may offer tanning services (i.e., beauty salons and gyms).

- 1) The board of health shall ensure that appointed inspectors carry out inspections of tanning bed facilities on a complaint basis and inspections are conducted during regular operating hours of the facility.
- 2) The board of health shall ensure that appointed inspectors take appropriate action where non-compliance with the Act is determined, which may include providing additional education or taking enforcement action as deemed necessary using a progressive enforcement approach.
- 3) The board of health shall ensure that appointed inspectors, as part of the inspection, review the process for operator-led government identification checks set out in section 2 of *O.Reg. 99/14*, to ensure adherence to client age restriction of 18 years and above as set out in section 2 of the Act.⁴

Signs

- 4) The board of health shall make signs available for operators of tanning bed facilities, which can be accessed electronically at: www.ontario.ca/uvrsmart.

The prescribed signs must be posted at tanning bed facilities where they are clearly visible and legible to clients in accordance with the *O. Reg. 99/14* under the Act.⁴

Four types of signs are required for tanning bed facilities that address prohibiting access and use of the facility to adolescents under 18 years of age, prohibition of self-tanning, as well as highlighting adverse health effects associated with tanning bed use and include:

- Point of Sale Warning Sign;
- Health Warning Sign;
- Age Restriction and Government Identification; and
- Employee Reminder Sign.

Enforcement Activity

- 5) The board of health shall develop and implement a compliance strategy that utilizes a progressive enforcement approach where more stringent actions are taken based on the frequency and severity of non-compliance.

Data Collection and Reporting

- 6) The board of health shall collect and maintain an inventory of tanning bed facilities and data on inspection and enforcement activities using the inspection form provided by the ministry to determine compliance with the Act.³

Public Disclosure of Inspection Results

- 7) The board of health shall publicly disclose a summary report on each complaint based inspection of tanning bed facilities. Complaint based inspections are to be disclosed when:
 - a) The complaint is substantiated and upon conducting a risk assessment, the public health inspector has determined that the premises requires an on-site inspection or investigation; and
 - b) A public health risk has been identified.
- 8) Reports:
 - a) Shall be posted on the board of health's website in a location that is easily accessible to the public within two weeks of a completed inspection. Reports must be posted for two years.
 - b) Shall contain:
 - i) The type of premises;
 - ii) The name and address of the premises;
 - iii) The date of inspection;
 - iv) The type of inspection (e.g., routine, re-inspection, complaint based);
 - v) Inspection status (e.g., in general compliance, found to have minor infractions, infractions corrected on-site, critical infractions found requires re-inspection, other means of describing status based on existing disclosure programs);
 - vi) A brief description of any corrective measures to be taken;
 - vii) A brief description of any corrective measures taken (if applicable);
 - viii) The date all corrective measures were confirmed to be completed (if applicable); and
 - ix) Contact information of the board of health for more information.
 - c) Reporting requirements may be adapted to match the visual style of the board of health's website. Boards of health are encouraged to integrate the required content areas listed above into existing public disclosure programs.
 - d) Shall be compliant with relevant legislation, including the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA), the *French Language Services Act* (FLSA) (if applicable), the *Municipal Freedom of Information and Protection of*

Privacy Act (MFIPPA) and the *Personal Health Information Protection Act, 2004 (PHIPA)*. No personal information or personal health information shall be disclosed in a report.

- 9) Where follow up inspections are required, the board of health shall post a subsequent report or amend the posted report with additional information and include the date(s) of the re-inspection(s) within two weeks from the date(s) or earlier as needed. The board of health shall also consider the urgency of the new relevant information, and whether a potential risk to the public exists if there is a delay in updating the public report(s).
- 10) Where enforcement actions result in the issuance of tickets, summons, or closures the board of health shall post the following information:
 - a) Name and address of the premises;
 - b) Short form wording of the ticket or summons in accordance with the *Provincial Offences Act*; and
 - c) The date on which the ticket or summons was issued and date of conviction.

Notice of Operation

- 11) A notice of operation to the medical officer of health is required from any person offering tanning services or ultraviolet light treatments for tanning.
 - a) Upon receipt of such notification, the board of health shall update their inventory of facilities and maintain contact information of the owner/operator, location and name of the tanning bed facility, address, telephone number and other information as needed.

Advertising and Marketing to Adolescents

- 12) Any advertising or marketing of tanning services or treatments directed to adolescents is prohibited. Such ads, claims and images are prohibited regardless of whether they appear in print or electronic media, which includes campaigns and strategies, as per the Act and section 4 of *O. Reg. 99/14*.⁴ The prohibition also applies to any promotional materials for tanning use targeting adolescents through giveaways, or other means of marketing at venues that are frequently used or accessed by youth.

Authority of an Inspector

The Minister of Health and Long-Term Care appoints inspectors for the purposes of the Act. Medical Officers of Health have discretion to select and nominate their staff for designation under the *Skin Cancer Prevention Act (Tanning Beds), 2013*.³

- 13) An appointed inspector may, at a reasonable time, enter any premises where tanning bed use or ultraviolet light treatments for tanning are provided or sold to determine compliance with the Act. In addition to complaints-based inspections, the purpose of inspector visits may include, but is not limited to:

- a) Raise awareness on requirements of the Act;
- b) Provide operator education for best practices and approaches; and
- c) Deliver any materials (i.e., signs), as required for compliance.

Any person who hinders, obstructs or interferes with an inspector in the execution of his/her duties is in contravention of the Act. Violations of the Act could warrant education, warnings, and/or fines by the appointed inspector in accordance with section 8 of the Act. As short form wording exists for the Act in *Reg. 950* under the *Provincial Offences Act*, tickets may be issued in accordance with Schedule 82.2 of that Regulation.^{5,6}

- 14) The board of health shall ensure staff appointed under the Act receive ministry sanctioned training within one year of appointment.

Glossary

Adolescent: Person under 18 years of age.

Inspection: An examination or assessment conducted by a person appointed as an inspector pursuant to Section 8 of the Act, and also appointed as a Provincial Offences Officer.

Inspector: A person appointed as an inspector pursuant to Section 8 of the Act, and also appointed as a Provincial Offences Officer pursuant to the *Ontario Provincial Offences Act*.

Ministry: Ministry of Health and Long-Term Care.

Personal Services Setting: A premises at which personal services are offered where there is a risk of exposure to blood or bodily fluids and includes premises at which hairdressing and barbering, tattooing, body piercing, nail services, electrolysis and other aesthetic services are offered.

Progressive Enforcement: The use of more stringent charging options to reflect the frequency and severity of the level of non-compliance.

References

1. Ontario. Ministry of Health and Long-Term Care. Ontario public health standards: requirements for programs, services, and accountability, 2018. Toronto, ON: Queen's Printer for Ontario; 2018. Available from: http://www.health.gov.on.ca/en/pro/programs/publichealth/oph_standards/default.aspx
2. *Health Protection and Promotion Act*, RSO 1990, c H.7. Available from: <https://www.ontario.ca/laws/statute/90h07>
3. *Skin Cancer Prevention Act (Tanning Beds)*, 2013, SO 2013, c 5. Available from: <https://www.ontario.ca/laws/statute/13s05>
4. *GENERAL*, O Reg 99/14. Available from: <https://www.ontario.ca/laws/regulation/r14099>
5. *PROCEEDINGS COMMENCED BY CERTIFICATE OF OFFENCE*, RRO 1990, Reg 950. Available from: <https://www.ontario.ca/laws/regulation/900950>
6. *Provincial Offences Act*, RSO 1990, c P.33. Available from: <https://www.ontario.ca/laws/statute/90p33>
7. *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c M.56. Available from: <https://www.ontario.ca/laws/statute/90m56>
8. *Personal Health Information Protection Act*, 2004, SO 2004, c 3, Sched. A. Available from: <https://www.ontario.ca/laws/statute/04p03>
9. *Accessibility for Ontarians with Disabilities Act*, 2005, SO 2005, c 11. Available from: <https://www.ontario.ca/laws/statute/05a11>
10. *French Language Services Act*, RSO 1990, c F.32. Available from: <https://www.ontario.ca/laws/statute/90f32>

